



General Assembly

February Session, 2004

***Raised Bill No. 5411***

LCO No. 1387

\*01387\_\_\_\_\_BA\_\*

Referred to Committee on Banks

Introduced by:  
(BA)

***AN ACT CONCERNING CONSUMER CREDIT LICENSEES AND  
CREDITORS' COLLECTION PRACTICES.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 36a-485 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2004*):

3 As used in this section and sections 36a-486 to [36a-498] 36a-498a,  
4 inclusive, as amended by this act, unless the context otherwise  
5 requires:

6 (1) "Advance fee" means any consideration paid or given, directly or  
7 indirectly, to a mortgage lender, first mortgage broker or originator  
8 required to be licensed or registered pursuant to sections 36a-485 to  
9 [36a-498] 36a-498a, inclusive, as amended by this act, prior to the  
10 closing of a first mortgage loan to any person, including, but not  
11 limited to, loan fees, points, broker's fees or commissions, transaction  
12 fees or similar prepaid finance charges;

13 (2) "Advertise" or "advertisement" means the use of media, mail,  
14 computer, telephone, personal contact or any other means to offer the

15 opportunity for a first mortgage loan;

16 (3) "First mortgage broker" means a person who, for a fee,  
17 commission or other valuable consideration, directly or indirectly,  
18 negotiates, solicits, arranges, places or finds a first mortgage loan that  
19 is to be made by a mortgage lender, whether or not the mortgage  
20 lender is required to be licensed under sections 36a-485 to [36a-498]  
21 36a-498a, inclusive, as amended by this act;

22 (4) "First mortgage correspondent lender" means a person engaged  
23 in the business of making first mortgage loans in such persons own  
24 name where the loans are not held by such person for more than  
25 ninety days and are funded by another person through a warehouse  
26 agreement, table funding agreement or similar agreement;

27 (5) "First mortgage lender" means a person engaged in the business  
28 of making first mortgage loans: (A) In such person's own name  
29 utilizing such person's own funds, or (B) by funding loans through a  
30 table funding agreement;

31 (6) "First mortgage loan" means a loan or an extension of credit,  
32 including, but not limited to, an extension of credit pursuant to a  
33 contract or an assigned contract for the sale of goods or services, made  
34 to a natural person, the proceeds of which are to be used primarily for  
35 personal, family or household purposes, and which is secured by a  
36 first mortgage upon any interest in one-to-four-family residential  
37 owner-occupied real property located in this state which is not subject  
38 to any prior mortgages and includes the renewal or refinancing of an  
39 existing first mortgage loan;

40 (7) "Mortgage lender" means a first mortgage lender, a first  
41 mortgage correspondent lender, or both;

42 (8) "Originator" means an individual who is employed or retained  
43 by a mortgage lender or first mortgage broker that is required to be  
44 licensed under sections 36a-485 to [36a-498] 36a-498a, inclusive, as

45 amended by this act, for, or with the expectation of, a fee, commission  
46 or other valuable consideration, to negotiate, solicit, arrange or find a  
47 first mortgage loan. "Originator" does not include an officer, if the  
48 licensee is a corporation; a general partner, if the licensee is a  
49 partnership; a member, if the licensee is a limited liability company; or  
50 a sole proprietor, if the licensee is a sole proprietorship;

51 (9) "Residential property" means improved real property used or  
52 occupied, or intended to be used or occupied, for residential purposes;

53 (10) "Simulated check" means a document that imitates or resembles  
54 a check but is not a negotiable instrument;

55 (11) "Table funding agreement" means an agreement wherein a  
56 person agrees to fund mortgage loans to be made in another person's  
57 name and to purchase such loans after they are made; and

58 (12) "Warehouse agreement" means an agreement to provide credit  
59 to a person to enable the person to have funds to make mortgage loans  
60 and hold such loans pending sale to other persons.

61 Sec. 2. Section 36a-486 of the general statutes is repealed and the  
62 following is substituted in lieu thereof (*Effective October 1, 2004*):

63 (a) No person shall engage in the business of making first mortgage  
64 loans or act as a first mortgage broker in this state unless such person  
65 has first obtained the required license in accordance with the  
66 provisions of sections 36a-485 to [36a-498] 36a-498a, inclusive, as  
67 amended by this act. A first mortgage correspondent lender shall not  
68 be deemed to be acting as a first mortgage lender if such first mortgage  
69 correspondent lender makes a loan utilizing its own funds in a  
70 situation where another person does not honor such person's  
71 commitment to fund the loan.

72 (b) No licensee shall employ or retain an originator without first  
73 registering such originator under sections 36a-485 to [36a-498] 36a-  
74 498a, inclusive, as amended by this act, provided such registration

75 shall not be required for any originator who is registered by such  
76 licensee under sections 36a-510 to 36a-524, inclusive, as amended by  
77 this act. No individual may act as an originator without being  
78 registered, or act as an originator, as defined in sections 36a-485, as  
79 amended by this act, and 36a-510, for more than one person. The  
80 registration of an originator is not effective during any period when  
81 such originator is not associated with a licensee. Both the originator  
82 and the licensee shall promptly notify the commissioner, in writing, of  
83 the termination of employment or services of an originator.

84 (c) Each first mortgage loan negotiated, solicited, placed, found or  
85 made without a license or registration shall constitute a separate  
86 violation for purposes of section 36a-50, as amended.

87 Sec. 3. Section 36a-487 of the general statutes is repealed and the  
88 following is substituted in lieu thereof (*Effective October 1, 2004*):

89 The following are exempt from licensing under sections 36a-485 to  
90 [36a-498] 36a-498a, inclusive, as amended by this act:

91 (1) Any bank, out-of-state bank, Connecticut credit union, federal  
92 credit union, or out-of-state credit union, provided subsidiaries of such  
93 institutions are not exempt from licensure;

94 (2) Persons making five or fewer first mortgage loans within any  
95 period of twelve consecutive months;

96 (3) Bona fide nonprofit corporations making first mortgage loans to  
97 promote home ownership for the economically disadvantaged;

98 (4) Agencies of the federal government, or any state or municipal  
99 government, or any quasi-governmental agency making first mortgage  
100 loans under the specific authority of the laws of any state or the United  
101 States;

102 (5) Persons licensed under sections 36a-555 to 36a-573, inclusive, as  
103 amended by this act, when making loans authorized by said sections;

104 (6) Persons licensed under sections 36a-510 to 36a-524, inclusive, as  
105 amended by this act, when making loans authorized by said sections,  
106 provided such licensed mortgage lender makes less than twelve first  
107 mortgage loans within any period of twelve consecutive months;

108 (7) Any corporation or its affiliate which makes first mortgage loans  
109 exclusively for the benefit of its employees or agents;

110 (8) Any corporation, licensed in accordance with section 38a-41, or  
111 its affiliate or subsidiary, which makes first mortgage loans to promote  
112 home ownership in urban areas; and

113 (9) Persons acting as fiduciaries with respect to any employee  
114 pension benefit plan qualified under the Internal Revenue Code of  
115 1986, or any subsequent corresponding internal revenue code of the  
116 United States, as from time to time amended, who make first mortgage  
117 loans solely to plan participants from plan assets.

118 Sec. 4. Section 36a-489 of the general statutes is repealed and the  
119 following is substituted in lieu thereof (*Effective October 1, 2004*):

120 (a) If the commissioner finds, upon the filing of an application for a  
121 license, that the applicant meets the requirements of subsection (a) of  
122 section 36a-488, and that the financial responsibility, character,  
123 reputation, integrity and general fitness of the applicant and of the  
124 partners thereof if the applicant is a partnership, of the members if the  
125 applicant is a limited liability company or association, and of the  
126 officers, directors and principal employees if the applicant is a  
127 corporation, are such as to warrant belief that the business will be  
128 operated soundly and efficiently, in the public interest and consistent  
129 with the purposes of sections 36a-485 to [36a-498] 36a-498a, inclusive,  
130 as amended by this act, the commissioner may thereupon issue the  
131 applicant the license. If the commissioner fails to make such findings,  
132 or if the commissioner finds that the applicant has made a material  
133 misstatement in the application, the commissioner shall not issue a  
134 license, and shall notify the applicant of the denial and the reasons for

135 such denial. Any denial of an application by the commissioner shall,  
136 when applicable, be subject to the provisions of section 46a-80.

137 (b) Upon the filing of an application for registration, the  
138 commissioner shall register the originator named in the application  
139 unless the commissioner finds that the applicant has made a material  
140 misstatement in the application or that the financial responsibility,  
141 character, reputation, integrity and general fitness of the originator  
142 named in the application, are not such as to warrant belief that  
143 granting such registration would be in the public interest and  
144 consistent with the purposes of sections 36a-485 to [36a-498] 36a-498a,  
145 inclusive, as amended by this act. If the commissioner denies  
146 registration, the commissioner shall notify the originator named in the  
147 application and the applicant filing the application of the denial and  
148 the reasons for such denial. Any denial of an application by the  
149 commissioner shall, when applicable, be subject to the provisions of  
150 section 46a-80. A registration shall remain in force and effect until it  
151 has been surrendered, revoked, suspended or expires in accordance  
152 with the provisions of sections 36a-485 to [36a-498] 36a-498a, inclusive,  
153 as amended by this act.

154 Sec. 5. Subsection (c) of section 36a-490 of the general statutes is  
155 repealed and the following is substituted in lieu thereof (*Effective*  
156 *October 1, 2004*):

157 (c) Each license shall remain in force and effect until it has been  
158 surrendered, revoked, suspended or expires in accordance with the  
159 provisions of sections 36a-485 to [36a-498] 36a-498a, inclusive, as  
160 amended by this act.

161 Sec. 6. Section 36a-491 of the general statutes is repealed and the  
162 following is substituted in lieu thereof (*Effective October 1, 2004*):

163 (a) (1) Each applicant for a first mortgage lender license or a first  
164 mortgage correspondent lender license shall, at the time of making  
165 such application, pay to the commissioner a license fee of eight

166 hundred dollars, provided if such application is filed not earlier than  
167 one year before the date such license will expire, the applicant shall  
168 pay to the commissioner a license fee of four hundred dollars. Each  
169 applicant for a first mortgage broker license shall, at the time of  
170 making such application, pay to the commissioner a license fee of four  
171 hundred dollars, provided if such application is filed not earlier than  
172 one year before the date such license will expire, the applicant shall  
173 pay to the commissioner a license fee of two hundred dollars. Each  
174 license issued pursuant to [this] section 36a-489, as amended by this  
175 act, shall expire at the close of business on September thirtieth of the  
176 even-numbered year following its issuance unless such license is  
177 renewed. Such licensee shall, on or before September first of the year in  
178 which the license expires, pay to the commissioner the appropriate  
179 license fee as provided in this section for the succeeding two years,  
180 commencing October first, together with such renewal application as  
181 the commissioner may require. Any renewal application filed with the  
182 commissioner after September first shall be accompanied by a one-  
183 hundred-dollar late fee. Whenever an application for a license, other  
184 than a renewal application, is filed under sections 36a-485 to [36a-498]  
185 36a-498a, inclusive, as amended by this act, by any person who was a  
186 licensee under said sections and whose license expired less than sixty  
187 days prior to the date such application was filed, such application shall  
188 be accompanied by a one-hundred-dollar processing fee in addition to  
189 the application fee.

190 (2) A licensee filing an application for registration of an originator  
191 shall, at the time of making such application, pay to the commissioner  
192 a registration fee of one hundred dollars for such originator, provided  
193 if such application is filed not earlier than one year before the date the  
194 license of the applicant will expire, the applicant shall pay to the  
195 commissioner a registration fee of fifty dollars for such originator.  
196 Each registration shall expire at such time as the licensee's license  
197 expires unless such registration is renewed. Such licensee shall file an  
198 application for renewal of the registration and pay to the commissioner  
199 the appropriate registration fee as provided in this subsection for the

200 succeeding two years, commencing October first.

201 (3) (A) If the commissioner determines that a check filed with the  
202 commissioner to pay a license fee under subdivision (1) of this  
203 subsection has been dishonored, the commissioner shall automatically  
204 suspend the license or a renewal license that has been issued but is not  
205 yet effective. The commissioner shall give the licensee notice of the  
206 automatic suspension pending proceedings for revocation or refusal to  
207 renew and an opportunity for a hearing on such actions in accordance  
208 with section 36a-51.

209 (B) If the commissioner determines that a check filed with the  
210 commissioner to pay a registration fee has been dishonored, the  
211 commissioner shall automatically suspend the registration or a  
212 registration that has been issued but is not yet effective. The  
213 commissioner shall give the originator notice of the automatic  
214 suspension and the licensee notice of the automatic suspension  
215 pending proceedings for revocation or refusal to renew and an  
216 opportunity for a hearing on such actions in accordance with section  
217 36a-51.

218 (b) No abatement of the license or registration fee shall be made if  
219 the license or registration is surrendered, revoked or suspended prior  
220 to the expiration of the period for which it was issued. All fees  
221 required by this section shall be nonrefundable.

222 Sec. 7. Section 36a-492 of the general statutes is repealed and the  
223 following is substituted in lieu thereof (*Effective October 1, 2004*):

224 (a) No such license, and no renewal thereof, shall be granted unless  
225 the applicant has filed a bond with the commissioner written by a  
226 surety authorized to write such bonds in this state, in the sum of forty  
227 thousand dollars, the form of which shall be approved by the Attorney  
228 General. Such bond shall be conditioned upon such licensee faithfully  
229 performing any and all written agreements or commitments with or  
230 for the benefit of borrowers and prospective borrowers, truly and



231 faithfully accounting for all funds received from a borrower or  
232 prospective borrower by the licensee in the licensee's capacity as a  
233 mortgage lender or a first mortgage broker, and conducting such  
234 mortgage business consistent with the provisions of sections 36a-485 to  
235 [36a-498] 36a-498a, inclusive, as amended by this act. Any borrower or  
236 prospective borrower who may be damaged by failure to perform any  
237 written agreements or commitments, or by the wrongful conversion of  
238 funds paid by a borrower or prospective borrower to a licensee, may  
239 proceed on such bond against the principal or surety thereon, or both,  
240 to recover damages. The commissioner may proceed on such bond  
241 against the principal or surety thereon, or both, to collect any civil  
242 penalty imposed upon the licensee pursuant to subsection (a) of  
243 section 36a-50, as amended. The proceeds of the bond, even if  
244 commingled with other assets of the licensee, shall be deemed by  
245 operation of law to be held in trust for the benefit of such claimants  
246 against the licensee in the event of bankruptcy of the licensee and shall  
247 be immune from attachment by creditors and judgment creditors. The  
248 bond shall run concurrently with the period of the license granted to  
249 the applicant, and the aggregate liability under the bond shall not  
250 exceed the penal sum of the bond.

251 (b) The surety company shall have the right to cancel the bond at  
252 any time by a written notice to the licensee stating the date cancellation  
253 shall take effect. Such notice shall be sent by certified mail to the  
254 licensee at least thirty days prior to the date of cancellation. A surety  
255 bond shall not be cancelled unless the surety company notifies the  
256 commissioner in writing not less than thirty days prior to the effective  
257 date of cancellation. The commissioner shall automatically suspend the  
258 license on the date the cancellation takes effect, unless the surety bond  
259 has been replaced or renewed. The commissioner shall give the  
260 licensee notice of the automatic suspension pending proceedings for  
261 revocation or refusal to renew and an opportunity for a hearing on  
262 such actions in accordance with section 36a-51.

263 Sec. 8. Section 36a-494 of the general statutes is repealed and the

264 following is substituted in lieu thereof (*Effective October 1, 2004*):

265 (a) (1) The commissioner may suspend, revoke or refuse to renew  
266 any license, in accordance with the provisions of section 36a-51, for any  
267 reason which would be sufficient grounds for the commissioner to  
268 deny an application for a license under sections 36a-485 to [36a-498]  
269 36a-498a, inclusive, as amended by this act, or if the commissioner  
270 finds that the licensee or any proprietor, director, officer, member,  
271 partner, shareholder, trustee, employee or agent of such licensee has  
272 done any of the following: (A) Made any material misstatement in the  
273 application; (B) committed any fraud, misappropriated funds or  
274 misrepresented, concealed, suppressed, intentionally omitted or  
275 otherwise intentionally failed to disclose any of the material particulars  
276 of any first mortgage loan transaction, including disclosures required  
277 by subdivision (6) of subsection (a) of section 36a-493, or part III of  
278 chapter 669 or regulations adopted pursuant thereto, to anyone  
279 entitled to such information; (C) violated any of the provisions of this  
280 title or of any regulations adopted pursuant thereto, or any other law  
281 or regulation applicable to the conduct of its business; or (D) failed to  
282 perform any agreement with a licensee or a borrower.

283 (2) The commissioner may suspend, revoke or refuse to renew any  
284 registration of an originator, in accordance with the provisions of  
285 section 36a-51, for any reason which would be sufficient grounds for  
286 the commissioner to deny an application for a registration under  
287 sections 36a-485 to [36a-498] 36a-498a, inclusive, as amended by this  
288 act, or if the commissioner finds that the registrant has committed any  
289 fraud, misappropriated funds or misrepresented any of the material  
290 particulars of any first mortgage loan transaction.

291 (b) Whenever it appears to the commissioner that any person has  
292 violated, is violating or is about to violate any of the provisions of  
293 sections 36a-485 to [36a-498] 36a-498a, inclusive, as amended by this  
294 act, or any regulation adopted pursuant thereto, or any licensee has  
295 failed to perform any agreement with a borrower, the commissioner

296 may take action against such person or licensee in accordance with  
297 [section] sections 36a-50, as amended, and 36a-52.

298 Sec. 9. Section 36a-496 of the general statutes is repealed and the  
299 following is substituted in lieu thereof (*Effective October 1, 2004*):

300 No person engaged in the business of making first mortgage loans  
301 in this state, whether licensed in accordance with the provisions of  
302 sections 36a-485 to [36a-498] 36a-498a, inclusive, as amended by this  
303 act, or exempt from licensing, shall accept applications or referral of  
304 applicants from, or pay a fee to, any first mortgage broker or originator  
305 who is required to be licensed or registered under said sections but is  
306 not licensed or registered to act as such by the commissioner, if the  
307 mortgage lender has actual knowledge that the first mortgage broker  
308 or originator is not licensed or registered by the commissioner.

309 Sec. 10. Section 36a-498 of the general statutes is repealed and the  
310 following is substituted in lieu thereof (*Effective October 1, 2004*):

311 (a) Except as provided in subsection (c) of this section, every  
312 advance fee paid or given, directly or indirectly, to a mortgage lender  
313 or first mortgage broker required to be licensed pursuant to sections  
314 36a-485 to [36a-498] 36a-498a, inclusive, as amended by this act, shall  
315 be refundable.

316 (b) No originator required to be registered pursuant to sections 36a-  
317 485 to [36a-498] 36a-498a, inclusive, as amended by this act, shall  
318 accept payment of any advance fee except an advance fee on behalf of  
319 a licensee. Nothing in this subsection shall be construed as prohibiting  
320 the licensee from paying an originator all or part of an advance fee,  
321 provided such advance fee paid is not refundable under this section.

322 (c) Subsection (a) of this section shall not apply if: (1) The person  
323 providing the advance fee and the mortgage lender or first mortgage  
324 broker agree in writing that the advance fee shall not be refundable, in  
325 whole or in part; and (2) the written agreement complies in all respects

326 with the provisions of subsection (d) of this section.

327 (d) An agreement under subsection (c) of this section shall meet all  
328 of the following requirements to be valid and enforceable: (1) The  
329 agreement shall be dated, signed by both parties, and be executed  
330 prior to the payment of any advance fee; (2) the agreement shall  
331 expressly state the total advance fee required to be paid and any  
332 amount of the advance fee that shall not be refundable; (3) the  
333 agreement shall clearly and conspicuously state any conditions under  
334 which the advance fee will be retained by the licensee; (4) the term  
335 "nonrefundable" shall be used to describe each advance fee or portion  
336 thereof to which the term is applicable, and shall appear in boldface  
337 type in the agreement each time it is used; and (5) the form of the  
338 agreement shall (A) be separate from any other forms, contracts, or  
339 applications utilized by the licensee, (B) contain a heading in a size  
340 equal to at least ten-point boldface type that shall title the form  
341 "AGREEMENT CONCERNING NONREFUNDABILITY OF  
342 ADVANCE FEE", (C) provide for a duplicate copy which shall be  
343 given to the person paying the advance fee at the time of payment of  
344 the advance fee, and (D) include such other specifications as the  
345 commissioner may by regulation prescribe.

346 (e) An agreement under subsection (c) of this section that does not  
347 meet the requirements of subsection (d) of this section shall be  
348 voidable at the election of the person paying the advance fee.

349 Sec. 11. Section 36a-498a of the general statutes is repealed and the  
350 following is substituted in lieu thereof (*Effective October 1, 2004*):

351 No licensee under section 36a-489, as amended by this act, and no  
352 person exempt from licensure under subdivisions (1), (5) and (6) of  
353 section 36a-487, as amended by this act, making a first mortgage loan  
354 shall charge, impose or cause to be paid, directly or indirectly, prepaid  
355 finance charges that exceed in the aggregate, the greater of five per  
356 cent of the principal amount of the loan or two thousand dollars. If the  
357 proceeds of the loan are used to refinance an existing loan, the

358 aggregate of the prepaid finance charges for the current refinancing  
 359 and any previous financings by such licensee or exempt person or  
 360 affiliate of such licensee or exempt person within two years of the  
 361 current refinancing shall not exceed the greater of five per cent of the  
 362 principal amount of the initial loan or two thousand dollars. The  
 363 provisions of this section shall not prohibit such licensee or exempt  
 364 person from charging, imposing or causing to be paid, directly or  
 365 indirectly, prepaid finance charges in addition to those permitted by  
 366 this section in connection with any additional proceeds received by the  
 367 borrower in the refinancing, provided such prepaid finance charges on  
 368 the additional proceeds shall not exceed five per cent of the additional  
 369 proceeds. For purposes of this section, "additional proceeds" has the  
 370 meaning given to that term in subdivision (3) of section 36a-746e and  
 371 "prepaid finance charge" has the meaning given to that term in  
 372 subdivision [(6)] (7) of section 36a-746a.

373 Sec. 12. Subsection (b) of section 36a-511 of the general statutes is  
 374 repealed and the following is substituted in lieu thereof (*Effective*  
 375 *October 1, 2004*):

376 (b) No licensee shall employ or retain an originator without first  
 377 registering such originator under sections 36a-510 to 36a-524, inclusive,  
 378 provided such registration shall not be required for any originator who  
 379 is registered by such licensee under sections 36a-485 to [36a-498] 36a-  
 380 498a, inclusive, as amended by this act. No individual may act as an  
 381 originator without being registered, or act as an originator, as defined  
 382 in sections 36a-485, as amended by this act, and 36a-510, for more than  
 383 one person. The registration of an originator is not effective during any  
 384 period when such originator is not associated with a licensee. Both the  
 385 originator and the licensee shall promptly notify the commissioner, in  
 386 writing, of the termination of employment or services of an originator.

387 Sec. 13. Section 36a-512 of the general statutes is repealed and the  
 388 following is substituted in lieu thereof (*Effective October 1, 2004*):

389 The following are exempt from the licensing requirements of

390 sections 36a-510 to 36a-524, inclusive, as amended by this act: (1)  
391 Persons licensed as small business investment companies by the Small  
392 Business Administration; (2) persons owning real property who take  
393 back from the buyer of such property a secondary mortgage loan in  
394 lieu of any portion of the purchase price of the property; (3) persons  
395 making secondary mortgage loans to persons related to the lender by  
396 blood or marriage; (4) any bank, out-of-state bank, Connecticut credit  
397 union, federal credit union or out-of-state credit union, provided  
398 subsidiaries of such institutions are not exempt from licensure; (5)  
399 persons making five or fewer secondary mortgage loans within any  
400 twelve consecutive months, provided (A) the aggregate total of such  
401 loans does not exceed one hundred thousand dollars, (B) each  
402 individual loan does not exceed twenty thousand dollars, and (C) such  
403 loans are written in compliance with section 36a-521, as amended; (6)  
404 nonprofit corporations making secondary mortgage loans to promote  
405 home ownership or improvements for the disadvantaged; (7) agencies  
406 of the federal government or any state or municipal government or  
407 any quasi-governmental agency making secondary mortgage loans  
408 under the specific authority of the laws of this state or the United  
409 States; (8) persons licensed under sections 36a-555 to 36a-573, inclusive,  
410 as amended by this act, when making loans authorized by said  
411 sections; (9) persons licensed under sections 36a-485 to [36a-498] 36a-  
412 498a, inclusive, as amended by this act, when making loans authorized  
413 by said sections, provided such licensed lender makes fewer than  
414 twelve secondary mortgage loans within any twelve consecutive  
415 months and such loans are written in compliance with section 36a-521,  
416 as amended; (10) any corporation or its affiliate which makes mortgage  
417 loans exclusively for the benefit of its employees or agents; (11) any  
418 corporation, licensed in accordance with section 38a-41 or its affiliate  
419 or subsidiary, which makes secondary mortgage loans to promote  
420 home ownership in urban areas; and (12) persons acting as fiduciaries  
421 with respect to any employee pension benefit plan qualified under the  
422 Internal Revenue Code of 1986, or any subsequent corresponding  
423 internal revenue code of the United States, as from time to time

424 amended, who make secondary mortgage loans solely to plan  
425 participants from plan assets.

426 Sec. 14. Section 36a-514 of the general statutes is repealed and the  
427 following is substituted in lieu thereof (*Effective October 1, 2004*):

428 (a) (1) Each applicant for a secondary mortgage lender license or a  
429 secondary mortgage correspondent lender license, at the time of  
430 making such application, shall pay to the commissioner a license fee of  
431 eight hundred dollars, provided if such application is filed not earlier  
432 than one year before the date such license will expire, the applicant  
433 shall pay to the commissioner a license fee of four hundred dollars,  
434 and if such application is for renewal of a license that expires on June  
435 30, 2003, the applicant shall pay to the commissioner a license fee of  
436 five hundred dollars. Each applicant for a secondary mortgage broker  
437 license, at the time of making such application, shall pay to the  
438 commissioner a license fee of four hundred dollars, provided if such  
439 application is filed not earlier than one year before the date such  
440 license will expire, the applicant shall pay to the commissioner a  
441 license fee of two hundred dollars, and if such application is for  
442 renewal of a license that expires on June 30, 2003, the applicant shall  
443 pay to the commissioner a license fee of two hundred fifty dollars.  
444 Each license issued pursuant to this section shall expire at the close of  
445 business on September thirtieth of the even-numbered year following  
446 its issuance unless such license is renewed. Each licensee shall, on or  
447 before September first of the year in which the license expires, or in the  
448 case of a license that expires on June 30, 2003, on or before June 1, 2003,  
449 file a renewal application and pay to the commissioner the appropriate  
450 license fee as provided in this section to renew the license. Any  
451 renewal application filed with the commissioner after September first,  
452 or in the case of a license that expires on June 30, 2003, after June 1,  
453 2003, shall be accompanied by a one-hundred-dollar late fee. (2)  
454 Whenever an application for a license, other than a renewal  
455 application, is filed under this section by any person who was a  
456 licensee and whose license expired less than sixty days prior to the

457 date such application was filed, such application shall be accompanied  
458 by a one-hundred-dollar processing fee in addition to the application  
459 fee.

460 (b) A licensee filing an application for registration of an originator  
461 shall, at the time of making such application pay to the commissioner a  
462 registration fee of one hundred dollars for each originator, provided if  
463 such application is filed not earlier than one year before the date the  
464 license of the applicant will expire, the applicant shall pay to the  
465 commissioner a registration fee of fifty dollars for each originator. Each  
466 registration shall expire at such time as the licensee's license expires  
467 unless such registration is renewed. Such licensee shall file an  
468 application for renewal of the registration and pay to the commissioner  
469 the appropriate registration fee as provided in this subsection for the  
470 succeeding two years, commencing October first.

471 (c) (1) If the commissioner determines that a check filed with the  
472 commissioner to pay a fee under subsection (a) of this section has been  
473 dishonored, the commissioner shall automatically suspend the license  
474 or a renewal license that has been issued but is not yet effective. The  
475 commissioner shall give the licensee notice of the automatic  
476 suspension pending proceedings for revocation or refusal to renew  
477 and an opportunity for a hearing on such actions in accordance with  
478 section 36a-51.

479 (2) If the commissioner determines that a check filed with the  
480 commissioner to pay a registration fee has been dishonored, the  
481 commissioner shall automatically suspend the registration or a  
482 registration that has been issued but is not yet effective. The  
483 commissioner shall give the originator notice of the automatic  
484 suspension and the licensee notice of the automatic suspension  
485 pending proceedings for revocation or refusal to renew and an  
486 opportunity for a hearing on such actions in accordance with section  
487 36a-51.

488 [(c)] (d) No abatement of the license or registration fee shall be made



489 if the license or registration is surrendered, revoked or suspended  
490 prior to the expiration of the period for which it was issued. All fees  
491 required by this section shall be nonrefundable.

492 Sec. 15. Subsection (b) of section 36a-517 of the general statutes is  
493 repealed and the following is substituted in lieu thereof (*Effective*  
494 *October 1, 2004*):

495 (b) Whenever it appears to the commissioner that any person has  
496 violated, is violating or is about to violate any of the provisions of  
497 sections 36a-510 to 36a-524, inclusive, as amended by this act, or any  
498 licensee has failed to perform any agreement with a borrower, the  
499 commissioner may take action against such person or licensee in  
500 accordance with [section] sections 36a-50, as amended, and 36a-52.

501 Sec. 16. Section 36a-519 of the general statutes, as amended by  
502 section 1 of public act 03-61, is repealed and the following is  
503 substituted in lieu thereof (*Effective October 1, 2004*):

504 In any transaction subject to part III of chapter 669, no mortgage  
505 lender, including any licensee and any person who is exempt from  
506 licensing under section 36a-512, as amended by this act, shall impose  
507 any charge as a penalty for the prepayment of principal of a secondary  
508 mortgage loan which exceeds five per cent of the balance prepaid,  
509 provided no penalty shall be imposed for any prepayment occurring  
510 more than three years after the date of such loan.

511 Sec. 17. Section 36a-539 of the general statutes is repealed and the  
512 following is substituted in lieu thereof (*Effective October 1, 2004*):

513 (a) Each person applying to the commissioner for a sales finance  
514 company license shall pay a license fee of eight hundred dollars,  
515 provided if such application is filed not earlier than one year before the  
516 date such license will expire, such person shall pay a license fee of four  
517 hundred dollars. Each license issued pursuant to sections 36a-535 to  
518 36a-546, inclusive, as amended by this act, shall expire at the close of

519 business on September thirtieth of the odd-numbered year following  
 520 its issuance unless such license is renewed, provided any license that is  
 521 renewed effective July 1, 2003, shall expire on September 30, 2005.  
 522 Whenever an application for a license is filed under this section by any  
 523 person who was a licensee under sections 36a-535 to 36a-546, inclusive,  
 524 as amended by this act, and whose license expired less than sixty days  
 525 prior to the date such application was filed, such application shall be  
 526 accompanied by a one-hundred-dollar processing fee in addition to the  
 527 application fee. Not more than one place of business shall be  
 528 maintained under the same license, but the commissioner may issue  
 529 more than one license to the same licensee upon receipt of an  
 530 application and the payment of the appropriate license fee.

531 (b) If the commissioner determines that a check filed with the  
 532 commissioner to pay a fee under subsection (a) of this section has been  
 533 dishonored, the commissioner shall automatically suspend the license.  
 534 The commissioner shall give the licensee notice of the automatic  
 535 suspension pending proceedings for revocation and an opportunity for  
 536 a hearing on such action in accordance with section 36a-51.

537 ~~[(b)]~~ (c) No abatement of the license fee shall be made if the license  
 538 is surrendered, revoked or suspended prior to the expiration of the  
 539 period for which it was issued. All fees required by this section and  
 540 section 36a-542, as amended by this act, shall be nonrefundable.

541 Sec. 18. Section 36a-542 of the general statutes is repealed and the  
 542 following is substituted in lieu thereof (*Effective October 1, 2004*):

543 (a) Each person licensed as a sales finance company may renew  
 544 such license by filing with the commissioner on or before September  
 545 first of the year in which the license expires or, in the case of a license  
 546 that expires on June 30, 2003, on or before June 1, 2003, a renewal  
 547 application on a form prescribed by the commissioner under oath,  
 548 together with such exhibits and other pertinent information as the  
 549 commissioner may require. The license fee shall be eight hundred  
 550 dollars, provided the license fee for renewal of a license that expires on

551 June 30, 2003, shall be nine hundred dollars. Any renewal application  
552 filed with the commissioner under this section after September first, or  
553 in the case of a license that expires on June 30, 2003, after June 1, 2003,  
554 shall be accompanied by a one-hundred-dollar late fee.

555 (b) If the commissioner determines that a check filed with the  
556 commissioner to pay a fee under subsection (a) of this section for a  
557 renewal application has been dishonored, the commissioner shall  
558 automatically suspend the license or a renewal license that has been  
559 issued but is not yet effective. The commissioner shall give the licensee  
560 notice of the automatic suspension pending proceedings for revocation  
561 or refusal to renew and an opportunity for a hearing on such actions in  
562 accordance with section 36a-51.

563 Sec. 19. Subsection (d) of section 36a-543 of the general statutes is  
564 repealed and the following is substituted in lieu thereof (*Effective*  
565 *October 1, 2004*):

566 (d) Whenever it appears to the commissioner that any person has  
567 violated, is violating or is about to violate any provision of sections  
568 36a-535 to 36a-546, inclusive, as amended by this act, or any regulation  
569 adopted under said sections, or that any licensee has defrauded any  
570 retail buyer to the buyer's damage or wilfully failed to perform any  
571 written agreement with any retail buyer, the commissioner may take  
572 action against such person or such licensee in accordance with  
573 [section] sections 36a-50, as amended, and 36a-52.

574 Sec. 20. Section 36a-555 of the general statutes is repealed and the  
575 following is substituted in lieu thereof (*Effective October 1, 2004*):

576 No person shall engage in the business of making loans of money or  
577 credit in the amount or to the value of fifteen thousand dollars or less  
578 for loans made under section 36a-563 or section 36a-565, and charge,  
579 contract for or receive a greater rate of interest, charge or consideration  
580 than twelve per cent per annum therefor, except (1) a bank, (2) an out-  
581 of-state bank, (3) a Connecticut credit union, (4) a federal credit union,

582 (5) an out-of-state credit union, (6) a savings and loan association  
 583 wholly owned subsidiary service corporation, (7) a person to the extent  
 584 that such person makes loans for agricultural, commercial, industrial  
 585 or governmental use or extends credit through an open-end credit  
 586 plan, as defined in subdivision (8) of section 36a-676, for the retail  
 587 purchase of consumer goods or services, (8) a mortgage lender licensed  
 588 pursuant to sections 36a-485 to [36a-498] 36a-498a, inclusive, as  
 589 amended by this act, when making first mortgage loans, as defined in  
 590 section 36a-485, as amended by this act, (9) a mortgage lender licensed  
 591 pursuant to sections 36a-510 to 36a-524, inclusive, as amended by this  
 592 act, when making secondary mortgage loans, as defined in section 36a-  
 593 510, or (10) a licensed pawnbroker, unless licensed to do so by the  
 594 commissioner as provided in sections 36a-555 to 36a-573, inclusive, as  
 595 amended by this act.

596 Sec. 21. Section 36a-558 of the general statutes is repealed and the  
 597 following is substituted in lieu thereof (*Effective October 1, 2004*):

598 (a) Each applicant for a small loan lender license, at the time of  
 599 making such application, shall pay to the commissioner a license fee of  
 600 eight hundred dollars, provided if such application is filed not earlier  
 601 than one year before the date such license will expire, the applicant  
 602 shall pay to the commissioner a license fee of four hundred dollars.  
 603 Each such license shall expire at the close of business on September  
 604 thirtieth of the odd-numbered year following its issuance, unless such  
 605 license is renewed, provided any license that is renewed effective July  
 606 1, 2003, shall expire on September 30, 2005. Each licensee shall, on or  
 607 before September first of the year in which the license expires, or in the  
 608 case of a license that expires on June 30, 2003, on or before June 1, 2003,  
 609 file a renewal application and pay to the commissioner a license fee of  
 610 eight hundred dollars to renew the license, provided if such  
 611 application is for renewal of a license that expires on June 30, 2003, the  
 612 applicant shall pay the commissioner a license fee of nine hundred  
 613 dollars. Any renewal application filed with the commissioner after  
 614 September first, or in the case of a license that expires on June 30, 2003,

615 after June 1, 2003, shall be accompanied by a one-hundred-dollar late  
616 fee. Whenever an application for a license, other than a renewal  
617 application, is filed under this section by any person who was a  
618 licensee and whose license expired less than sixty days prior to the  
619 date such application was filed, such application shall be accompanied  
620 by a one-hundred-dollar processing fee in addition to the application  
621 fee. Each applicant shall pay the expenses of any examination or  
622 investigation made under sections 36a-555 to 36a-573, inclusive, as  
623 amended by this act.

624 (b) If the commissioner determines that a check filed with the  
625 commissioner to pay a fee under subsection (a) of this section has been  
626 dishonored, the commissioner shall automatically suspend the license  
627 or a renewal license that has been issued but is not yet effective. The  
628 commissioner shall give the licensee notice of the automatic  
629 suspension pending proceedings for revocation or refusal to renew  
630 and an opportunity for a hearing on such actions in accordance with  
631 section 36a-51.

632 ~~[(b)]~~ (c) No abatement of the license fee shall be made if the license  
633 is surrendered, revoked or suspended prior to the expiration of the  
634 period for which it was issued. All fees required by this section shall be  
635 nonrefundable.

636 Sec. 22. Section 36a-572 of the general statutes is repealed and the  
637 following is substituted in lieu thereof (*Effective October 1, 2004*):

638 The commissioner may, in accordance with section 36a-51, suspend,  
639 revoke or refuse to renew any license issued under the provisions of  
640 section 36a-556 if the commissioner finds that the licensee has violated  
641 any provision of sections 36a-555 to 36a-573, inclusive, as amended by  
642 this act, or any regulation or order lawfully made pursuant to and  
643 within the authority of said sections, or if the commissioner finds that  
644 any fact or condition exists which, if it had existed at the time of the  
645 original application for the license, clearly would have warranted a  
646 denial of such license.

647       Sec. 23. Section 36a-633 of the general statutes is repealed and the  
648       following is substituted in lieu thereof (*Effective October 1, 2004*):

649       (a) Each applicant for a license, at the time of making such  
650       application, shall pay to the commissioner a nonrefundable license fee  
651       of four hundred dollars. Each license issued pursuant to this [section]  
652       subsection shall expire at the close of business on June thirtieth of each  
653       year, unless such license is renewed. Each licensee shall, on or before  
654       June twentieth of each year, pay to the commissioner the sum of four  
655       hundred dollars as a license fee for the succeeding year, commencing  
656       July first. Each applicant or licensee shall pay the expenses of any  
657       examination or investigation made under sections 36a-625 to 36a-634,  
658       inclusive, as amended by this act.

659       (b) If the commissioner determines that a check filed with the  
660       commissioner to pay a license fee has been dishonored, the  
661       commissioner shall automatically suspend the license or a renewal  
662       license that has been issued but is not yet effective. The commissioner  
663       shall give the licensee notice of the automatic suspension pending  
664       proceedings for revocation or refusal to renew and an opportunity for  
665       a hearing on such actions in accordance with section 36a-51.

666       Sec. 24. Subdivision (2) of section 36a-645 of the general statutes is  
667       repealed and the following is substituted in lieu thereof (*Effective*  
668       *October 1, 2004*):

669       (2) "Creditor" means (i) any person to whom a debt is owed by a  
670       consumer debtor and such debt results from a transaction occurring in  
671       the ordinary course of such person's business, or (ii) any person to  
672       whom such debt is assigned. "Creditor" shall not include a consumer  
673       collection agency, as defined in section 36a-800, as amended, or any  
674       department or agency of the United States, this state, any other state,  
675       or any political subdivision thereof.

676       Sec. 25. Section 36a-656 of the general statutes is repealed and the  
677       following is substituted in lieu thereof (*Effective October 1, 2004*):

678 (a) No person, other than a bona fide nonprofit organization, shall  
679 engage in the business of debt adjustment in this state. No bona fide  
680 nonprofit organization shall engage in the business of debt adjustment  
681 in this state without a debt adjuster license. Any bona fide nonprofit  
682 organization desiring to obtain such a license shall file with the  
683 commissioner an application under oath, setting forth such  
684 information as the commissioner may require. Each applicant for a  
685 license and each licensee shall notify the commissioner of any change  
686 in the applicant's business from that stated in the application for the  
687 license.

688 (b) If the commissioner finds, upon the filing of an application for a  
689 debt adjuster license, that: (1) The financial responsibility, character,  
690 reputation, integrity and general fitness of the applicant and of the  
691 partners thereof if the applicant is a partnership, of the members if the  
692 applicant is a limited liability company or association, and of the  
693 officers, directors and principal employees if the applicant is a  
694 corporation, are such as to warrant belief that the business will be  
695 operated soundly and efficiently, in the public interest and consistent  
696 with the purposes of sections 36a-655 to 36a-665, inclusive, as amended  
697 by this act; and (2) the applicant is solvent and no proceeding in  
698 bankruptcy, receivership or assignment for the benefit of creditors has  
699 been commenced against the applicant, the commissioner may  
700 thereupon issue the applicant a debt adjuster license. If the  
701 commissioner fails to make such findings, the commissioner shall not  
702 issue a license and shall notify the applicant of the reasons for such  
703 denial. Any denial of an application by the commissioner shall, when  
704 applicable, be subject to the provisions of section 46a-80.

705 (c) Each applicant for an original debt adjuster license shall, at the  
706 time of making such application, pay to the commissioner an  
707 application fee of two hundred fifty dollars. Each such license shall  
708 expire at the close of business on September thirtieth of the odd-  
709 numbered year following its issuance unless such license is renewed.  
710 Any license issued prior to October 1, 2002, shall expire on September

711 30, 2003, unless renewed. Each licensee shall, on or before September  
712 first of the year in which the license expires, file such renewal  
713 application as the commissioner may require.

714 (d) If the commissioner determines that a check filed with the  
715 commissioner to pay an application fee has been dishonored, the  
716 commissioner shall automatically suspend the license or a renewal  
717 license that has been issued but is not yet effective. The commissioner  
718 shall give the licensee notice of the automatic suspension pending  
719 proceedings for revocation or refusal to renew and an opportunity for  
720 a hearing on such actions in accordance with section 36a-51.

721 ~~[(d)]~~ (e) No abatement of the license fee shall be made if the license  
722 is surrendered, revoked or suspended prior to the expiration of the  
723 period for which it was issued. The fee required by subsection (c) of  
724 this section shall be nonrefundable.

725 Sec. 26. Section 36a-664 of the general statutes is repealed and the  
726 following is substituted in lieu thereof (*Effective October 1, 2004*):

727 (a) No such license, and no renewal thereof, shall be granted unless  
728 the applicant has filed a bond with the commissioner written by a  
729 surety authorized to write such bonds in this state, the form of which  
730 shall be approved by the Attorney General, provided any applicant  
731 that files applications for licenses for more than one location shall file a  
732 single bond. For every applicant, the principal amount of the bond  
733 shall be the greater of (1) forty thousand dollars, or (2) twice the  
734 amount of the highest total payments received by the applicant from  
735 Connecticut debtors in connection with the applicant's debt adjustment  
736 activity in any month during the preceding twelve months ending July  
737 thirty-first of each year. The licensee shall submit to the commissioner  
738 such bond or renewal thereof by September first of each year. Such  
739 bond shall be conditioned upon such licensee faithfully performing  
740 any and all written agreements with debtors, truly and faithfully  
741 accounting for all funds received by the licensee in the licensee's  
742 capacity as a debt adjuster, and conducting such business consistent



743 with the provisions of sections 36a-655 to 36a-665, inclusive. Any  
744 debtor who may be damaged by failure to perform any written  
745 agreements, or by the wrongful conversion of funds paid to a licensee,  
746 may proceed on such bond against the principal or surety thereon, or  
747 both, to recover damages. The commissioner may proceed on such  
748 bond against the principal or surety thereon, or both, to collect any  
749 civil penalty imposed upon the licensee pursuant to subsection (a) of  
750 section 36a-50, as amended. The proceeds of the bond, even if  
751 commingled with other assets of the licensee, shall be deemed by  
752 operation of law to be held in trust for the benefit of such claimants  
753 against the licensee in the event of bankruptcy of the licensee and shall  
754 be immune from attachment by creditors and judgment creditors. The  
755 bond shall be maintained during the entire period of the license  
756 granted to the applicant, and the aggregate liability under the bond  
757 shall not exceed the penal sum of the bond.

758 (b) The surety company shall have the right to cancel the bond at  
759 any time by a written notice to the licensee stating the date cancellation  
760 shall take effect. Such notice shall be sent by certified mail to the  
761 licensee at least thirty days prior to the date of cancellation. A surety  
762 bond shall not be cancelled unless the surety company notifies the  
763 commissioner in writing not less than thirty days prior to the effective  
764 date of cancellation. The commissioner shall automatically suspend the  
765 license on the date the cancellation takes effect, unless the surety bond  
766 has been replaced or renewed. The commissioner shall give the  
767 licensee notice of the automatic suspension pending proceedings for  
768 revocation or refusal to renew and an opportunity for a hearing on  
769 such actions in accordance with section 36a-51.

770 ~~[(b)]~~ (c) No licensee shall use, attempt to use or make reference to,  
771 either directly or indirectly, any word or phrase which states or  
772 implies that the licensee is endorsed, sponsored, recommended or  
773 bonded by the state.

774 Sec. 27. Section 36a-705 of the general statutes is repealed and the

775 following is substituted in lieu thereof (*Effective October 1, 2004*):

776 As used in this section and sections 36a-706 and 36a-707, unless the  
777 context otherwise requires:

778 (1) "First mortgage loan" means any loan made to an individual, the  
779 proceeds of which are to be used primarily for personal, family or  
780 household purposes, which loan is secured by a mortgage upon any  
781 interest in one-to-four-family residential, owner-occupied real  
782 property located in this state which is not subject to any prior  
783 mortgages. The term includes the renewal or refinancing of an existing  
784 first mortgage loan;

785 (2) "Mortgage lender" means any person engaged in the business of  
786 making first mortgage loans, including, but not limited to, banks, out-  
787 of-state banks, Connecticut credit unions, federal credit unions, out-of-  
788 state credit unions and first mortgage lenders required to be licensed  
789 under sections 36a-485 to [36a-498] 36a-498a, inclusive, as amended by  
790 this act; and

791 (3) "Mortgage rate lock-in" means any written agreement with a  
792 mortgage applicant made by a mortgage lender or its representative,  
793 prior to the issuance of a first mortgage loan commitment, in which the  
794 mortgage lender agrees that a particular rate, number of points or  
795 variable rate terms will be the rate, number of points, or variable rate  
796 terms at which it will lend, provided the first mortgage loan is closed  
797 within a specified period, and the applicant qualifies for the loan in  
798 accordance with the lender's standards of credit worthiness.

799 Sec. 28. Section 36a-725 of the general statutes is repealed and the  
800 following is substituted in lieu thereof (*Effective October 1, 2004*):

801 As used in this section and section 36a-726, unless the context  
802 otherwise requires:

803 (1) "First mortgage loan" means any loan made to an individual, the  
804 proceeds of which are to be used primarily for personal, family or

805 household purposes, which loan is secured by a mortgage upon any  
806 interest in one-to-four-family residential, owner-occupied real  
807 property located in this state which is not subject to any prior  
808 mortgages. The term includes the renewal or refinancing of an existing  
809 first mortgage loan;

810 (2) "Mortgage insurance" means insurance written by an  
811 independent mortgage insurance company to protect the mortgage  
812 lender against loss incurred in the event of a default by a borrower  
813 under the mortgage loan;

814 (3) "Mortgage lender" means any person engaged in the business of  
815 making first mortgage loans, including, but not limited to, banks, out-  
816 of-state banks, Connecticut credit unions, federal credit unions, out-of-  
817 state credit unions, and first mortgage lenders required to be licensed  
818 under sections 36a-485 to [36a-498] 36a-498a, inclusive, as amended by  
819 this act.

820 Sec. 29. Section 36a-736 of the general statutes is repealed and the  
821 following is substituted in lieu thereof (*Effective October 1, 2004*):

822 As used in sections 36a-735 to 36a-744, inclusive, as amended by this  
823 act, unless the context otherwise requires:

824 (1) "Applicant" means any person who applies for a home purchase  
825 loan, home improvement loan or other mortgage loan as defined in  
826 sections 36a-735 to 36a-744, inclusive, as amended by this act, whether  
827 or not the loan is granted;

828 (2) "Federal Home Mortgage Disclosure Act" means the Home  
829 Mortgage Disclosure Act of 1975 (12 USC section 2801 et seq.), as from  
830 time to time amended, and any regulations promulgated by the  
831 Federal Reserve Board pursuant to that act, except, for purposes of  
832 sections 36a-735 to 36a-744, inclusive, as amended by this act, the  
833 supervisory agency shall be the commissioner;

834 (3) "Financial institution" means any Connecticut bank or

835 Connecticut credit union which makes home purchase loans or home  
836 improvement loans or any for profit mortgage lending institution  
837 other than a Connecticut bank or Connecticut credit union, whose  
838 home purchase loan originations equaled or exceeded ten per cent of  
839 its loan origination volume, measured in dollars, in the preceding  
840 calendar year, if such mortgage lending institution is licensed under  
841 sections 36a-485 to [36a-498] 36a-498a, inclusive, as amended by this  
842 act, or 36a-510 to 36a-524, inclusive, as amended by this act;

843 (4) "Home improvement loan" has the same meaning as provided in  
844 the federal Home Mortgage Disclosure Act;

845 (5) "Home purchase loan" has the same meaning as provided in the  
846 federal Home Mortgage Disclosure Act; and

847 (6) "Mortgage loan" means a loan which is secured by residential  
848 real property.

849 Sec. 30. Section 36a-788 of the general statutes is repealed and the  
850 following is substituted in lieu thereof (*Effective October 1, 2004*):

851 Whenever it appears to the commissioner that any person has  
852 violated, is violating or is about to violate any provision of sections  
853 36a-770 to 36a-788, inclusive, as amended by this act, 42-100b and 42-  
854 100c, the commissioner may take action against such person in  
855 accordance with [section] sections 36a-50, as amended, and 36a-52.

856 Sec. 31. Section 36a-801 of the general statutes is repealed and the  
857 following is substituted in lieu thereof (*Effective October 1, 2004*):

858 (a) No person shall act within this state as a consumer collection  
859 agency without a consumer collection agency license. A consumer  
860 collection agency is acting within this state if it (1) has its place of  
861 business located within this state; (2) has its place of business located  
862 outside this state and collects from consumer debtors or property tax  
863 debtors who reside within this state for creditors who are located  
864 within this state; (3) has its place of business located outside this state

865 and regularly collects from consumer debtors or property tax debtors  
866 who reside within this state for creditors who are located outside this  
867 state; or (4) has its place of business located outside this state and is  
868 engaged in the business of collecting child support for creditors  
869 located within this state from consumer debtors who are located  
870 outside this state.

871 (b) (1) Any person desiring to act within this state as a consumer  
872 collection agency shall make a written application to the commissioner  
873 for such license in such form as the commissioner prescribes. Such  
874 application shall be accompanied by (A) a financial statement prepared  
875 by a certified public accountant or a public accountant, the accuracy of  
876 which is sworn to under oath before a notary public by the proprietor,  
877 a general partner or a corporate officer or a member duly authorized to  
878 execute such documents, (B) a license fee of eight hundred dollars, or  
879 in the case of an initial application that is filed not earlier than one year  
880 before the date such license will expire, a license fee of four hundred  
881 dollars, and (C) an investigation fee of one hundred dollars. The  
882 commissioner shall cause to be made such inquiry and examination as  
883 to the qualifications of each such applicant as the commissioner deems  
884 necessary. Each applicant shall furnish satisfactory evidence to the  
885 commissioner that the applicant is a person of good moral character  
886 and is financially responsible. If the commissioner is satisfied that such  
887 applicant is in all respects properly qualified and trustworthy and that  
888 the granting of such license is not against the public interest, the  
889 commissioner may issue to such applicant a license, in such form as  
890 the commissioner may adopt, to act within this state as a consumer  
891 collection agency. Any such license issued by the commissioner shall  
892 expire at the close of business on September thirtieth of the odd-  
893 numbered year following its issuance, unless such license is renewed,  
894 provided any license that is renewed effective May 1, 2003, shall expire  
895 on September 30, 2005. The commissioner may renew such application,  
896 in the commissioner's discretion, and upon filing of a proper renewal  
897 application accompanied by a license fee of eight hundred dollars, or  
898 in the case of an application for renewal of a license that expires on

899 April 30, 2003, a license fee of one thousand dollars, and satisfactory  
900 proof that such applicant at that time possesses the required  
901 qualifications for the license. Such renewal application shall be filed  
902 with the commissioner on or before September first of the year in  
903 which the license expires, or in the case of a license that expires on  
904 April 30, 2003, on or before April 1, 2003. Any renewal application  
905 filed with the commissioner after September first, or in the case of a  
906 license that expires on April 30, 2003, after April 1, 2003, shall be  
907 accompanied by a one-hundred-dollar late fee. Whenever an  
908 application for a license, other than a renewal application, is filed  
909 under sections 36a-800 to 36a-810, inclusive, as amended by this act, by  
910 any person who was a licensee under said sections 36a-800 to 36a-810,  
911 inclusive, as amended by this act, and whose license expired less than  
912 sixty days prior to the date such application was filed, such application  
913 shall be accompanied by a one-hundred-dollar processing fee in  
914 addition to the application fee. To further the enforcement of this  
915 section and to determine the eligibility of any person holding a license,  
916 the commissioner may, as often as the commissioner deems necessary,  
917 examine the licensee's books and records, and may, at any time,  
918 require the licensee to submit such a financial statement for the  
919 examination of the commissioner, so that the commissioner may  
920 determine whether the licensee is financially responsible to carry on a  
921 consumer collection agency business within the intents and purposes  
922 of sections 36a-800 to 36a-810, inclusive, as amended by this act. Any  
923 financial statement submitted by a licensee shall be confidential and  
924 shall not be a public record unless introduced in evidence at a hearing  
925 conducted by the commissioner.

926 (2) If the commissioner determines that a check filed with the  
927 commissioner to pay a fee under subdivision (1) of this subsection has  
928 been dishonored, the commissioner shall automatically suspend the  
929 license or a renewal license that has been issued but is not yet effective.  
930 The commissioner shall give the licensee notice of the automatic  
931 suspension pending proceedings for revocation or refusal to renew  
932 and an opportunity for a hearing on such actions in accordance with

933 section 36a-51.

934     ~~[(2)]~~ (3) No abatement of the license fee shall be made if the license  
935 is surrendered, revoked or suspended prior to the expiration of the  
936 period for which it was issued. All fees required by this section shall be  
937 nonrefundable.

938     (c) No person, licensed to act within this state as a consumer  
939 collection agency shall do so under any other name or at any other  
940 place of business than that named in the license. Any change of  
941 location of a place of business of a licensee shall require prior written  
942 notice to the commissioner. Not more than one place of business shall  
943 be maintained under the same license but the commissioner may issue  
944 more than one license to the same licensee upon compliance with the  
945 provisions of sections 36a-800 to 36a-810, inclusive, as amended by this  
946 act, as to each new licensee. A license shall not be transferable or  
947 assignable. Any licensee holding, applying for, or seeking renewal of  
948 more than one license may, at its option, file the bond required under  
949 section 36a-802, as amended by this act, separately for each place of  
950 business licensed, or to be licensed, or a single bond, naming each  
951 place of business, in an amount equal to five thousand dollars for each  
952 place of business.

953     Sec. 32. Section 36a-802 of the general statutes, as amended by  
954 section 2 of public act 03-262, is repealed and the following is  
955 substituted in lieu thereof (*Effective October 1, 2004*):

956     (a) No such license and no renewal thereof shall be granted unless  
957 the applicant has filed with the commissioner a bond to the people of  
958 the state in the penal sum of five thousand dollars, approved by the  
959 Attorney General as to form and by the commissioner as to sufficiency  
960 of the security thereof. Such bond shall be conditioned that such  
961 licensee shall well, truly and faithfully account for all funds entrusted  
962 to the licensee and collected and received by the licensee in the  
963 licensee's capacity as a consumer collection agency. Any person who  
964 may be damaged by the wrongful conversion of any creditor,

965 consumer debtor or property tax debtor funds received by such  
 966 consumer collection agency may proceed on such bond against the  
 967 principal or surety thereon, or both, to recover damages. The  
 968 commissioner may proceed on such bond against the principal or  
 969 surety thereon, or both, to collect any civil penalty imposed upon the  
 970 licensee pursuant to subsection (a) of section 36a-50, as amended. The  
 971 proceeds of the bond, even if commingled with other assets of the  
 972 licensee, shall be deemed by operation of law to be held in trust for the  
 973 benefit of such claimants against the licensee in the event of  
 974 bankruptcy of the licensee and shall be immune from attachment by  
 975 creditors and judgment creditors. The bond shall run concurrently  
 976 with the period of the license granted to the applicant, and the  
 977 aggregate liability under the bond shall not exceed the penal sum of  
 978 the bond.

979 (b) The surety company shall have the right to cancel the bond at  
 980 any time by a written notice to the licensee stating the date cancellation  
 981 shall take effect. Such notice shall be sent by certified mail to the  
 982 licensee at least thirty days prior to the date of cancellation. A surety  
 983 bond shall not be cancelled unless the surety company notifies the  
 984 commissioner in writing not less than thirty days prior to the effective  
 985 date of cancellation. The commissioner shall automatically suspend the  
 986 license on the date the cancellation takes effect, unless the surety bond  
 987 has been replaced or renewed. The commissioner shall give the  
 988 licensee notice of the automatic suspension pending proceedings for  
 989 revocation or refusal to renew and an opportunity for a hearing on  
 990 such actions in accordance with section 36a-51.

This act shall take effect as follows:	
Section 1	<i>October 1, 2004</i>
Sec. 2	<i>October 1, 2004</i>
Sec. 3	<i>October 1, 2004</i>
Sec. 4	<i>October 1, 2004</i>
Sec. 5	<i>October 1, 2004</i>
Sec. 6	<i>October 1, 2004</i>



Sec. 7	<i>October 1, 2004</i>
Sec. 8	<i>October 1, 2004</i>
Sec. 9	<i>October 1, 2004</i>
Sec. 10	<i>October 1, 2004</i>
Sec. 11	<i>October 1, 2004</i>
Sec. 12	<i>October 1, 2004</i>
Sec. 13	<i>October 1, 2004</i>
Sec. 14	<i>October 1, 2004</i>
Sec. 15	<i>October 1, 2004</i>
Sec. 16	<i>October 1, 2004</i>
Sec. 17	<i>October 1, 2004</i>
Sec. 18	<i>October 1, 2004</i>
Sec. 19	<i>October 1, 2004</i>
Sec. 20	<i>October 1, 2004</i>
Sec. 21	<i>October 1, 2004</i>
Sec. 22	<i>October 1, 2004</i>
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Sec. 24	<i>October 1, 2004</i>
Sec. 25	<i>October 1, 2004</i>
Sec. 26	<i>October 1, 2004</i>
Sec. 27	<i>October 1, 2004</i>
Sec. 28	<i>October 1, 2004</i>
Sec. 29	<i>October 1, 2004</i>
Sec. 30	<i>October 1, 2004</i>
Sec. 31	<i>October 1, 2004</i>
Sec. 32	<i>October 1, 2004</i>

***Statement of Purpose:***

To strengthen the enforcement authority of the Banking Commissioner with respect to consumer credit licensees.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*